

REMARKS/ARGUMENTS

Re-examination and favorable reconsideration in light of the above amendments and the following comments are respectfully requested.

Claims 10 - 19 are pending in the application. Currently, all claims have been rejected.

By the present amendment, claims 10 and 13 - 19 have been amended; claims 11 and 12 have been cancelled without prejudice; and new claims 20 - 27 have been added to the application.

In the office action mailed May 13, 2008, claims 10 - 13 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,279, 161 to Johnston; claims 14 - 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,631,074 to Herlihy, Jr.; and claims 17 - 19 were rejected under 35 U.S.C. 103(a) as being unpatentable over Johnston in view of U.S. Patent No. 5,182,812 to Goldsby.

The foregoing rejections are traversed by the present response.

The present invention as set forth in claim 10 relates to a coat garment to be worn by a human being, which garment comprises a front portion and a rear portion, a pair of arms being joined to said front and rear portions, each of said arms having an outer elbow portion formed from a stretch fabric material and other portions formed from a non-stretch fabric material, underarm portions formed from a stretch fabric material; said rear portion having first and second side portions and a central portion located intermediate said first and second side portions and abutting said first and second side portions; and each of said first and second side portions being formed from a stretch fabric material.

It is submitted that claim 10 is not anticipated by the Johnston patent. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Further, the identical invention must be shown in as completed detail as is contained in the claim. See *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Still further, the elements must be arranged as required by the claim. See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

A review of the Johnston patent shows that it does not disclose a coat garment which has the claimed underarm portions formed from a stretch fabric and a rear portion having first and second side portions, each formed from a stretch fabric material, and a central portion located intermediate said first and second side portions. Element 320C in Johnston is stated in column 5, line 29 to be an underlying material. There is nothing in Johnston which states that this is an underarm portion. As for Figures 2B - 2F in Johnston, these figures show a leggings, not a coat garment. As for column 5, lines 41 - 43, there is no disclosure of a rear portion having the claimed first and second side portions formed from a stretch fabric and a central portion located intermediate said first and second side portions.

For these reasons, claim 10 is not anticipated by Johnston. Claim 13 is allowable for the same reasons as claim 10 as well as on its own accord. There is no disclosure in Johnston of forming the central portion from a non-stretch material.

With respect to the rejection of claims 14 - 16 over Johnston and Herlihy, Jr, these claims are allowable for the

same reasons as claim 10. Herlihy, Jr. does not cure the aforementioned deficiencies of Johnston. With regard to the combination of references, one of ordinary skill in the art would not provide Johnston with a liner such as that shown in Herlihy Jr. Johnston is directed to a garment for causing animation effects of muscles, tendons, and joints. When the muscles, tendon and/or joint is flexed and bent the underlying material appears in varying dimensions mimicking that of the muscle, tendon and joint so as to cause an animation effect when viewed from another person looking at the garment. The inclusion of a liner would interfere with the underlying material appearing in varying dimensions mimicking that of the muscle, tendon and joint because of the liner being attached to both the stretch and non-stretch areas and because the liner does not have the same stretch as the Johnston stretch materials. There is no disclosure in Herlihy, Jr. of how one could form a liner which enables the function desired by Johnston. By combining Herlihy, Jr., as disclosed, with Johnston, Johnston would become inoperative for its intended purpose. It is submitted that for this reason, one of ordinary skill in the art would not make the proposed combination.

With regard to the rejection of claims 17 - 19 over Johnston in view of Goldsby, these claims are allowable for the same reasons as claim 10. Goldsby does not cure the aforementioned deficiencies of Johnston.

New claims 20 - 27 are believed to be allowable for the same reasons as claim 10 as well as on their own accord.

For the foregoing reasons, the instant application is believed to be in condition for allowance. Such allowance is respectfully solicited.

Should the Examiner believe an additional amendment is needed to place the case in condition for allowance, she is hereby invited to contact Applicant's attorney at the telephone number listed below.

No fee is believed to be due as a result of this response. Should the Director determine that a fee is due, he is hereby authorized to charge said fee to Deposit Account No. 02-0184.

Respectfully submitted,

Steven D. Culhane

By /Barry L. Kelmachter #29999/

Barry L. Kelmachter
BACHMAN & LaPOINTE, P.C.
Reg. No. 29,999
Attorney for Applicants

Telephone: (203)777-6628 ext. 112
Telefax: (203)865-0297
Email: docket@bachlap.com

Date: August 12, 2008